IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

WP(C).No. 6163 of 2004(H)

OS.560/1997 of I ADDL.M.C.,THRISSUR
CMA.2/2003 of ADDL.DISTRICT COURT, THRISSUR

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PETITIONER:

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1. OMANA W/O. LATE VELIYATH VASU,
   PANAMKULAM DESOM, OORAKAM VILLAGE
   THRISSUR TALUK.

2. SAJEEV KUMAR, AGED 22, S/O.LATE VELIYATH
   VASU, PANAMKULAM DESOM, ORAKAM VILLAGE,
   THRISSUR TALUK.

3. SARITHA D/O. OMANA AND VELIYATH VASU,
   PANAMKULAM DESOM, ORAKAM VILLAGE,
   THRISSUR TALUK.

4. KOCHUMOL, W/O. LATE GANAPATHY,
   VELIYATH HOUSE, PANAMKULAM DESOM,
   OORAKAM VILLAGE, THRISSUR TALUK.

5. SUNIL KUMAR, S/O. LATE GANAPATHY,
   VELIYATH HOUSE, PANAMKULAM DESOM,
   OORAKAM VILLAGE, THRISSUR TALUK.

6. SURESH, S/O. LATE GANAPATHY,
   VELIYATH HOUSE, PANAMKULAM DESOM,
   OORAKAM VILLAGE, THRISSUR TALUK.

7. SOBHANA, D/O. LATE GANAPATHY,
   VELIYATH HOUSE, PANAMKULAM DESOM,
   OORAKAM VILLAGE, THRISSUR TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)
SRI.RENJITH B.MARAR

RESPONDENTS:

SATHEESAN, S/O. VETTANATTU BALAN,
PANAMKULAM DESOM, OORAKAM VILLAGE,
THRISSUR TALUK.

BY ADV. SRI.P.V.CHANDRA MOHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO. 6163/2004

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE ORDER IN I.A. NO. 1084/01 IN O.S. NO. 560/97 ON THE FILE OF THE FIRST ADDITIONAL MUNSIFF COURT, THRISSUR DATED 12.4.2002.

EXT.P2: COPY OF THE DELAY CONDONATION PETITION I.A. NO. 33/03 IN CMA NO2/03 DATED 20.12.2002

EXT.P3: COPY OF THE ORDER PASSED IN I.A. NO. 33/03 IN CMA NO. 2/03 ON THE FILE OF THE FIRST FIRST ADDITIONAL DISTRICT JUDGE, THRISSUR DATED 10.7.2003

EXT.P4: COPY OF THE JUDGMETNTIN CMA NO. 2/03 DATED 10.7.2003 ON THE FILE OF THE FIRST ADDITIONAL DISTRICT COURT THRISSUR.

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 6163 of 2004

Dated this the 8th day of June , 2007

JUDGMENT

Service is complete. This writ petition is filed under Article 227 by the defendants in a suit for injunction seeking to set aside the order of the learned Munsiff dismissing their application for setting aside the ex parte decree passed against them and also the judgment of the District Court dismissing the appeal filed against that order. Ext.P3 is the order passed by the learned District Judge on the application for condonation of delay which had been caused in the matter of filing the Civil Miscellaneous Appeal. The reason stated in Ext.P3 will show that the entertainment of the appeal would not serve any useful purpose from the point of view of the petitioners. Ex parte decree was sought to be set aside on the ground that the petitioners' grandfather passed away. Trial court directed the petitioners to produce death certificate. Other particulars were given. But, such certificate was not produced. The learned judge rightly concluded that the ground on which the

adjournment was sought for was false.

2. I am not prepared to say, invoking the visitorial jurisdiction of this court under Article 227, that Ext.P3 is vitiated by infirmities to such an extent as to warrant correction. No wonder the District Judge was not inspired by the explanation of the petitioners that it was not their grand father, but a friend's grand father who had passed away. The above explanation clearly instance of wisdom discovered late, does not inspire me either. The suit itself was for injunction. Obviously for the past above 3 years there was injunction in favour of the plaintiffs against the petitioners.

The Writ Petition will stand dismissed. No costs.

PIUS C. KURIAKOSE,
JUDGE.

dpk